



CITY OF BATTLE CREEK

COMMUNITY SERVICES DEPARTMENT – PLANNING AND ZONING

AGENDA ZONING BOARD OF APPEALS MEETING

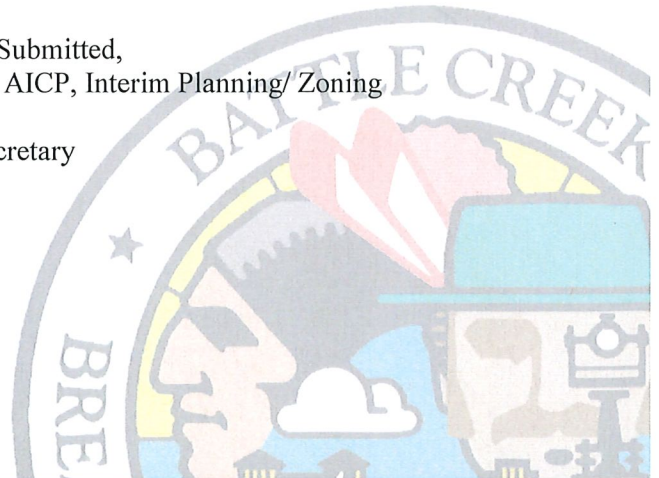
Date: Tuesday, September 14, 2021
Time: 4:00 P.M.
Where: Virtual Meeting

1. Call to Order
2. Attendance
3. Approval of Minutes: August 24, 2021 (Rescheduled Mtg.)
4. Correspondence
5. Additions or Deletions to the Agenda
6. Public Hearings/Deliberations:

Z-14-21 ZONING VARIANCE REQUEST: Petition from Mr. Jon Kuisel of Crossroads Outdoor, 200 N. Washington Square, Lansing, Michigan. Requesting a variance to allow a Digital Billboard to be 45 feet in height for property located at 211 Watkins Road, Battle Creek, MI 49015. Parcel #0630-18-694-0. Pursuant to Section 1263.10(b)(3) of the zoning code.

7. Old Business:
8. New Business:
9. Comments by the Public
10. Comments by the Staff and Commission Members
11. Adjournment

Respectfully Submitted,
Lynce Wells, AICP, Interim Planning/Zoning
Coordinator
Executive Secretary



DRAFT

**CITY OF BATTLE CREEK
ZONING BOARD OF APPEALS**

Zoom Virtual Meeting
10 North Division, Battle Creek, MI 49014

Minutes for Rescheduled Meeting -Tuesday, August 24, 2021

Meeting called to order by Chairperson Moreno at 4:00 p.m. This meeting was held virtually via Zoom Virtual Meeting.

Chair Moreno asked for attendance. A roll call was taken:

Present: Deland Davis in Battle Creek, Michael Delaware in Battle Creek, Bill Hanner in Battle Creek, James Moreno in Battle Creek, Aubrey Kipp in Battle Creek,

Absent: Carlyle Sims, Noris Lindsey and Mark Jones

Staff Present: Lynee Wells, Interim Planning and Zoning Administrator, Michele D. Sutherland, Customer Service Rep II, Marcie Gillette, Community Services Director, Marcel Stoetzel, Deputy City Attorney

Public Comments: None.

Approval of the Minutes for the July 13, 2021 meeting:

MOTION MADE BY COMM. HANNER TO APPROVE THE MEETING MINUTES FROM JULY 13, 2021. SECONDED BY COMM. DELAWARE. ALL IN FAVOR, 5-0, MOTION APPROVED.

OLD BUSINESS: None.

Announcement:

Chair Moreno reminded the Commission this is a virtual meeting and to keep their cameras on. He asked that if you are speaking for or against the petition to please state your name and address for the record.

Chair Moreno asked for any new business.

Michele Sutherland, Customer Service Rep II stated that she had received a letter of support from Diane and Don Backus, 115 Lynwood Drive for Z-13-21.

NEW BUSINESS:

A: Z-13-21 ZONING VARIANCE REQUEST: Petition from Battle Creek Country Club, 318 Country Club Drive, Battle Creek, MI 49015. Parcel #0073-00-200-1. Requesting a variance to allow a canopy to be placed on an existing legal non-conforming structure. Pursuant to Section 1270 of the zoning code.

Staff Presentation: Lynee Wells, Interim Planning Administrator verbally presented the staff report. Staff recommends denial of Z-13-21.

Chair Moreno asked for public comment.

Public Comments: None.

Applicant Presentation: Cody Newman, Driven Design, 117 W. Michigan Ave., he is the architect on the project. The footprint will not be extended. In an R1-A district-covered structures are allowed. They would not be changing the use, as it will continue as outdoor dining. The permanent pavilion would provide protection from the sun and elements. He believes the existing legal non-confirming building is a historical element as it is 50 years old.

At 4:24, Chair Moreno was having some technical difficulties. He asked Comm. Hanner to oversee the meeting while he restarted his computer and signed back onto the meeting.

ZBA Discussion:

After some discussion about the footprint of the building,

A MOTION WAS MADE BY COMM. DAVIS AND SECONDED BY COMM. DELAWARE TO APPROVE Z-13-21.

A VOTE WAS TAKEN,

Comm. Davis, no, agrees with staff report
Michael Delaware, no, agrees with staff report
Comm. Hanner, no, self imposed, didn't meet all the criteria
Chair Moreno, no, agrees with staff report, no practical difficulty
Comm. Kipp, no, agrees with staff report

ALL IN FAVOR, 5-0, MOTION DENIED

PUBLIC COMMENTS:

None.

COMMENTS FROM COMMISSION STAFF:

Marcie Gillette, Community Services Director announced that this would be Michele Sutherland's last meeting as she had taken another position within the organization.

Michele Sutherland thanked the Commissioners for her time with the board.

COMMENTS FROM COMMISSION MEMBERS:

None.

ADJOURNMENT:

Chairperson Moreno adjourned the meeting at 4:47 p.m.

Submitted by: Michele D. Sutherland, CSR II, Planning and Zoning



Battle Creek Zoning Board of Appeals

Staff Report

Meeting: September 14, 2021
Appeal #Z-14-21

To: Zoning Board of Appeals
From: Lynee Wells, Interim Planner
Date: September 7, 2021
Subject: Petition from Jon Kuisel of Crossroads Outdoor, 200 N. Washington Square, Lansing, MI. Requesting a variance to allow a digital billboard 45 feet in height at 211 Watkins Road, Battle Creek, MI 49015. Parcel #0630-18-694-0

Summary

This report addresses a petition from Jon Kuisel, attorney for Crossroads Outdoor whom seek approval of a non-use (dimensional) variance for a new billboard at 211 Watkins that would 1) increase the allowed billboard height from 35' to 45' (10' variance). The petitioner prefers the height due to the topography of the land and the embankment built to raise the highway over the railroad. This request is a public hearing item, and all required notices were published and mailed to property owners within 300'.



(Figure 1, aerial image from Google Maps with billboard location indicated. Rail line is to the right of the photo. Photo by applicant, 2021)

Property Description

The subject property (211 Watkins, Road Figure 1) is located in agricultural land along the I-94 Freeway, near the Mercury Drive Exit. The land is situated south of the freeway and airport, and is zoned Heavy Industrial. The subject site is bisected by a rail line, which includes a 14' embankment to raise the highway grade over the railroad.

As shown in Figure 2, the interchange grade embankment is higher than the grade at 211 Watkins.



Figure 2. I-94 embankment, photo from Applicant, 2021.

Project Description

The applicant is seeking to build a billboard at 211 Watkins. Previous to this request, the land owner removed the 3 billboards on the site. Now, the applicant is seeking to reduce the total number of billboards on the site to 1 (this request), and place a new 45' tall 12' x 42' digital billboard on the property at 45' in height.

Analysis and Applicable Zoning Ordinance Provisions

Chapter 1263 regulates signs, and Section 1263.10 relates to Billboards, specifically. The request meets the standards for Billboards, except for Section 1263.10 B, 3. Stating that Billboards shall not exceed 35' in height.



Figure 3. Height of adjacent electric pole, 13' with embankment in background.

Pursuant to chapter 1280.03(D), the Zoning Board of Appeals (the 'Board') has the authority to grant variances according to the following sections of the zoning code:

Subsection 1280.03 (D)(2) The Board shall have the authority to grant the following variations:

a) **Nonuse.** If there are practical difficulties for nonuse variances relating to the construction, structural changes, or alterations of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance in the way of carrying out the strict letter of the zoning ordinance, then the Board may grant a variance so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice is done. The Board may impose conditions as otherwise allowed under the Michigan Zoning Enabling Act; and

Staff finds that the items set forth under 1263.10 Billboards, which regulate the location, height, design, and other aspects of this sign type are categorized as a 'non-use' variation.

Subsection 1280.03(D)(3) Variance Standards. In consideration of all appeals and proposed exceptions to or variations from this Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the applicant has met all of the following conditions as set out for the specific type of variance requested:

a) **Nonuse (dimensional) Variances:**

i. When it can be shown that a practical difficulty would, in fact, exist if the strict non-use requirements of this zoning ordinance (e.g., lot area, width, setbacks, building height, etc.) were applied to a specific building project, the Board may grant a variance from these requirements. The practical difficulty from a failure to grant the variance must include substantially more than a mere inconvenience or a mere inability to attain a higher financial return.

The applicant has provided evidence that the railroad embankment is at least 13' in height adjacent to the agricultural lands. Because the location of the land is lower than the embankment, the height of the billboard from passersby would be approx. 10' from the base of the sign. Additionally, due to the vegetation and embankment itself, a sign at 10' in height would not be seen by eastbound traffic.

Land: 0'

Highway/railroad embankment grade: 13' (min.)

Visible pole height: $35' - 13' = 22'$

Billboard height: 12' (mounted at 10' above to achieve 12' height)

The change in grade and 13' embankment results in a practical difficulty to the applicant resulting in a billboard mounted too low for viewing from all travel lanes.

ii. The practical difficulty must be exceptional and peculiar to the subject parcel of land which do not generally exist throughout the City and may not be self-imposed or the result of an earlier action by the applicant. If the parcel of land could be reasonably

built upon in conformance with the requirements of this zoning ordinance by simply relocating or redesigning the structure(s), then a variance shall not be granted.

Staff believes that the practical difficulty of a highway/railway embankment adjacent to the lands for the proposed billboard are exceptional to this site with 13' of embankment and a rail line bisecting the property. This request is also unique as this site is zoned Heavy Industrial and had three prior billboards which are being replaced with one billboard. Moving the proposed location of the billboard to the north would result in conflicts with existing vegetation at the ramp of Mercury Drive, which is a vegetated wind/snow screen required by MDOT. Moving the billboard to the south is not feasible due to existing overhead electrical lines and proximity to the rail line.

iii. A variance shall not be granted when it will alter or conflict with the intent of this Ordinance considering the public benefits intended to be secured by this Zoning Code and the rights of others whose property would be affected by the allowance of the variance.

Staff finds that if the variance is granted, the intent of the Ordinance and purpose of the height standard will not be in conflict, as the request is unique to this property and its site conditions, and maintains the applicant's right to use the land for a billboard sign. Further, the property owner voluntarily removed three billboards on the property to replace with one billboard, supporting the City's ordinance stating a maximum of 75 billboards permitted city-wide.

iv. Any variance granted shall be the minimum necessary to provide relief for the practical difficulty of the applicant.

The height variance to allow 45' is the minimum due to topographic conditions of the railroad embankment and is based on the height of such embankment, its vegetation, and the location of the Mercury Drive interchange.

Recommendation

The Zoning Board of Appeals can approve, approve with conditions, or deny this request. The Zoning Board of Appeals can also table or postpone the request pending additional information. Staff finds that the variance meets all criteria under 1280.03(D)(3) *Variance Standards*. Therefore, staff recommends that the Zoning Board of Appeals approve the Dimensional Variance (Z-01-21) based on the findings contained in this staff report.





Disclaimer: This image is provided by the City of Battle Creek. The aerial photography was taken in spring 2020; the 2-foot contours (green) dated 2008; and the property lines (orange) are not established nor confirmed by surveyed data. This image shall not be used for construction purposes.

2-14-21
 Appeal No. _____
 Date: _____



City of Battle Creek

Community Services - Planning and Zoning Division
 City Hall • 10 N. Division Street, Ste. 117 • Battle Creek, Michigan 49014
 Ph (269) 966-3320 • Fax (269) 966-3555 • www.battlecreekmi.gov

APPLICATION FOR A VARIANCE **ZONING BOARD OF APPEALS**

An Appeal to the Zoning Board of Appeals to authorize a variance from the requirements of the Planning and Zoning Code (Part Twelve) of the City of Battle Creek.

Name of Appellant: Crossroads Outdoor (Jon Kujala)

Address: 200 N. Washington Square Phone: 517-896-3895
Lansing, MI

Name of Owner (if different from Appellant): FLIP South Park 1 LLC

Address: 211 Watkins Rd Phone: _____

TO THE ZONING BOARD OF APPEALS: Request is hereby made for permission to:
 (Choose One) ☐ Extend ☐ Erect ☐ Appeal ☐ Use ☐ Convert ☐ Enclose

Description: To erect a Digital Billboard on i-94
that is 12x42 in viewing size.

Contrary to the requirements of Section(s) 1263.10 (c) of the Planning and Zoning Code, upon the premises known as 211 Watkins Rd Battle Creek, MI, in accordance with the plans and/or plat record attached.

The proposed building or use requires Board action in the following area(s):

To allow a
viewing size/display area change from ~~8x16~~ to
12x42. 12x42 is allowed by Section 1263.10 (B2)

Property/Tax I.D. # No. 0630 - 18 - 694 - 0 Size of the Lot: Width _____ Depth _____

Size of Proposed Building: Width _____ Depth _____ Height _____

The following reasons are presented in support of this appeal (complete each section):

- (a.) This property cannot be used in conformance with the ordinance without the requested variance because:

Form Rev. 06/21/16

The display size of 4x8 would make the board unreadable and economically unviable. Especially when surrounding boards are 14x48

- (b.) This problem is due to a unique situation not shared in common with nearby property owners because:

We have to transfer the permit from a current board where a economically viable size is much smaller

- (c.) Granting the variance would not alter the essential character of the area because:

Other boards have a display area of 14x48 larger then the variance for 12x42 we are requesting

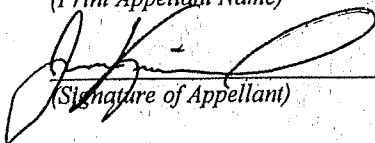
- (d.) The problem is not self-created because:

We are required to only use the size of our current board in Battle Creek.

- (e.) **USE VARIANCES ONLY** It is not possible to use this particular property for any other use currently allowed in the zoning district because:

I hereby affirm that, to the best of my knowledge, all the above and accompanying statements and drawings are correct and true. In addition, I give permission to the City of Battle Creek's Planning Department staff to access my property, if necessary, to take photographs of the subject of this appeal.

Jon Kuisel
(Print Appellant Name)


(Signature of Appellant)

200 N. Washington Square, Ste. 440 Lansing, MI 48933
(Address of Appellant)

If you require additional information or assistance in filling out this application, please contact the Planning Department at (269) 966-3320.

7/13/2021

LIGHTING STUDY

Watchfire Signs has been manufacturing outdoor electric signs since 1932 and LED signs since 1996. Currently, we have more than 60,000 LED signs in operation worldwide.

History of Optical Measurements and Calculations

Outdoor signs using incandescent light bulbs commonly measured illuminance using meters that report brightness in foot-candles. This unit is the standard measurement partly because a light bulb is a source of light that illuminates equally in all directions. LED signs are measured with the same meter even though its light does not illuminate equally in all directions. LED signs are designed to be highly directional, which is an advantage. LEDs allow light to be directed toward an intended audience, rather than dispersed in a wider arc out from the face of the sign.

In the LED industry luminance, or the intensity of visible light, is measured by nits, where one candela per square meter is equal to one nit. However, luminance meters are expensive, difficult to use in the field, and are not ideal for lighting studies commonly used for meeting local permitting requirements. As a result, LED signs are often evaluated using foot-candle measurements.

A foot-candle is the amount of light produced by a single candle when measured from one foot away. For reference, a 100-watt light bulb produces 137 foot-candles from 1 foot away, .0548 foot-candles from 50 feet away, and .0137 foot-candles from 100 feet away.

Watchfire Signs is Compliant with National Lighting Requirements

Watchfire Signs has adopted brightness standards endorsed by both the International Sign Association (ISA) and Outdoor Advertising Association of America (OAAA). Watchfire Signs' products meet the requirements set forth by both associations of no more than 0.3 foot-candles above existing ambient light levels. Total foot-candles are dependent on size and distance and can be adjusted as needed.

Automatic Brightness Adjustment: All Watchfire billboards automatically adjust brightness levels using either a 100-step hardware photocell, or what is referred to as a software photocell (hardware photocells are optional on OP Signs). Using the software photocell, the billboard will automatically adjust brightness based on the longitude and latitude location of the billboard. The billboard is appropriately dimmed or brightened based around daily sunrise and sunset. A hardware photocell will automatically adjust a billboard's brightness relative to changes in ambient light levels. For both options, a billboard operator can manually decrease the brightness from standard settings, but for safety reasons and in conformance to industry codes, Watchfire cannot allow billboards to operate brighter than standard settings.

Equipment used by Watchfire Signs to Measure Luminance

Foot-candles/Lux - Minolta Illuminance Meter T-10
Nits/candela/sq. m – Minolta Luminance Meter LS-100
Sign Calibration – Minolta CS-1000 Spectra radiometer

The proceeding study uses actual lab measurements made on modules using an illuminance meter. These measurements and extrapolations were then scaled up to the size of the billboard and distance corrections were made using the inverse square law.

SIGN LIGHTING STUDY

Billboard Details

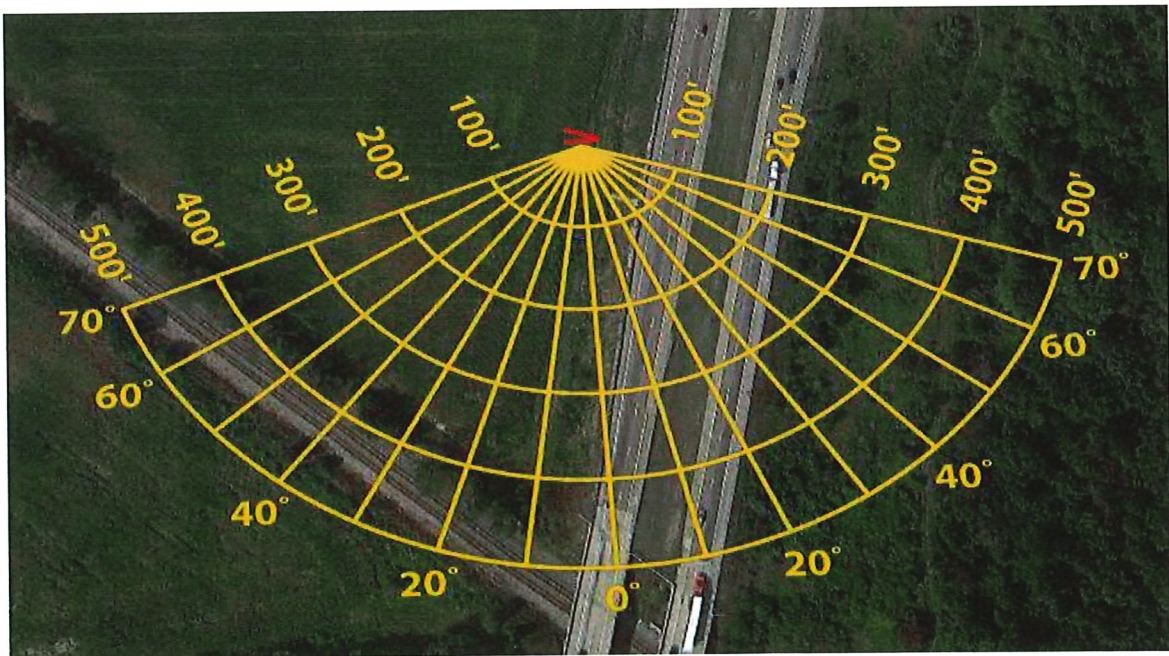
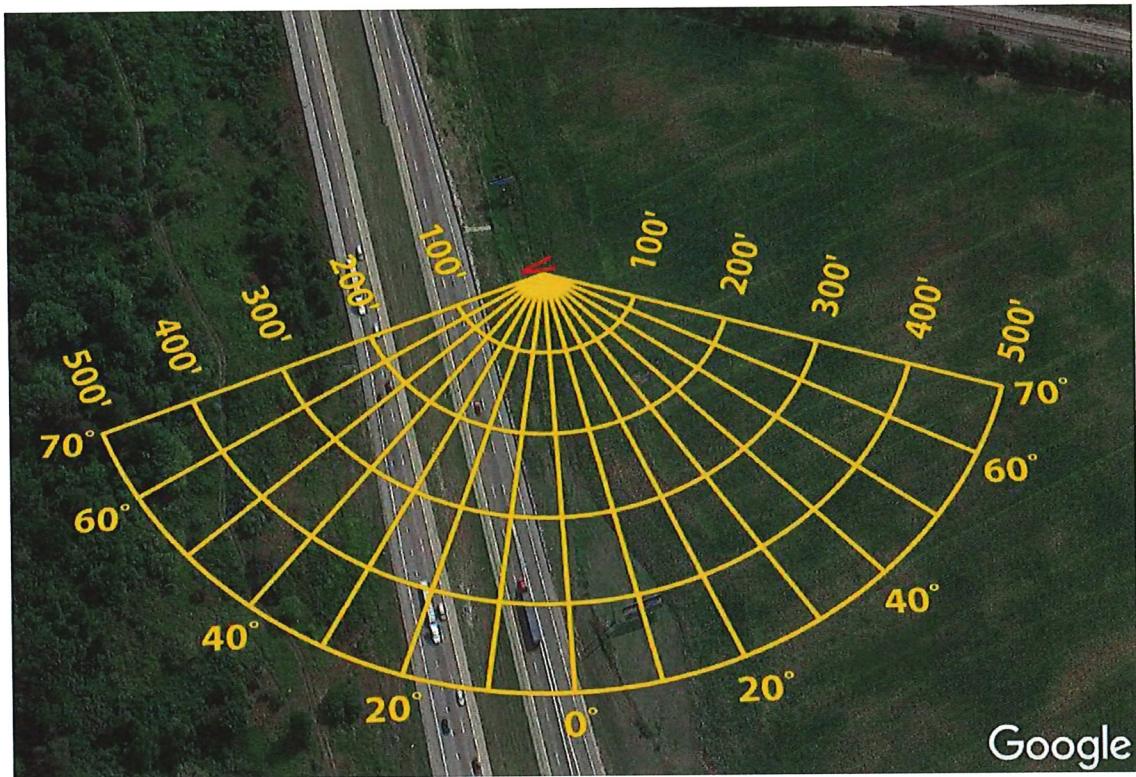
Size: 12'x40'

Location:

The table below represents a large LED billboard, demonstrating the increase in illuminance from the billboard during normal night operation. Smaller billboards would have less effect than shown below. The values are within the standards of both the ISA and OAAA and indicate that the ambient light broadcast into the surrounding area has minimal effect.

Foot-candles at night under normal operation					
	Horizontal Viewing Angle				
Viewing Distance (ft)	0°	20°	40°	60°	70°
100	0.48	0.44	0.39	0.27	0.16
200	0.12	0.11	0.10	0.07	0.04
300	0.05	0.05	0.04	0.03	0.02
400	0.03	0.03	0.02	0.02	0.01
500	0.02	0.02	0.02	0.01	0.01

Example Broadcast of Light at Distances and Angles



Conclusion

Given the above comparisons and measurements, the area will see an almost undetectable difference in ambient light after installation of the digital LED billboards.

Scotty Bland

Account Manager

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